

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 JOYCE ZAIC,

4 Plaintiff

5 v.

6 MICHAEL GIDDENS, et al.,

7 Defendants

Case No.: 2:14-cv-00892-APG-PAL

**Order Denying Motions to Set Aside
Judgment, Reverse Sanctions, and Reopen
Case**

[ECF Nos. 67, 68, 69]

8 Plaintiff Joyce Zaic filed motions to set aside the summary judgment order, reverse the
9 sanctions, and reopen the case. ECF Nos. 67, 68, 69. Zaic contends that somebody “poisoned”
10 her case by sending Judge Boulware, the former district judge assigned to this case, *ex parte*
11 information. She contends that I erred in dismissing her case without considering she is a pro se
12 litigant and based on the proceedings before Judge Boulware prior to his recusal. Specifically,
13 Zaic contends my prior order was based on a mistake of fact because I stated she concluded it
14 was unimportant for her to pick up her mail from the post office. Zaic contends she never made
15 that conclusion. Zaic also contends that I erroneously stated that she did not participate in
16 discovery and to the extent she did, there were less drastic remedial measures I could have taken
17 than dismissing her case.

18 The defendants respond that Zaic’s complaint was dismissed only after multiple warnings
19 from the court that she must engage in discovery or her case might be dismissed as a sanction.
20 The defendants also note that Zaic did not appeal the summary judgment ruling to the Ninth
21 Circuit. The defendants contend Zaic’s motions are untimely because she did not seek relief in
22 this court within a reasonable time. The defendants also characterize Zaic’s accusation of an
23 alleged *ex parte* communication with Judge Boulware as outrageous.

1 I granted case dispositive sanctions against Zaic on May 23, 2017, due to her failure to
2 comply with the discovery process in good faith despite warnings from Judge Boulware that she
3 may face case-dispositive sanctions. ECF No. 65. One year later, Zaic moves to reopen the case.

4 Federal Rule of Civil Procedure 60(b) provides that “[o]n motion and just terms, the court
5 may relieve a party or its legal representative from a final judgment, order, or proceeding” for
6 specified reasons, including “mistake” or “any other reason that justifies relief.” Fed. R. Civ. P.
7 60(b)(1), (6). A Rule 60(b) motion must be made “within a reasonable time,” and no more than
8 one year after entry of the challenged order if mistake is the basis of the challenge. Fed. R. Civ.
9 P. 60(c)(1). Courts resort to Rule 60(b)(6) “sparingly as an equitable remedy to prevent manifest
10 injustice.” *Lal v. California*, 610 F.3d 518, 524 (9th Cir. 2010) (quotation omitted). “To receive
11 relief under Rule 60(b)(6), a party must demonstrate extraordinary circumstances which
12 prevented or rendered [her] unable to prosecute” her case. *Id.* (quotation omitted).

13 Zaic did not bring her motion within a reasonable time. I entered my order dismissing
14 her case a year prior to her Rule 60(b) motion. She could have moved for reconsideration of my
15 order or appealed it but did not. She offers no explanation for why she has waited a year to bring
16 her motion. She does not identify any extraordinary circumstances that prevented her from filing
17 an appeal or her Rule 60(b) motion sooner. I therefore deny it as untimely. It is also unfounded
18 on the merits.

19 IT IS THEREFORE ORDERED that plaintiff Joyce Zaic’s motions to set aside the
20 judgment, reverse the sanctions, and reopen the case **(ECF Nos. 67, 68, 69) are DENIED.**

21 DATED this 17th day of August, 2018.

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ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE